



C.M.A.(MD).No.599 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.(MD)No.599 of 2013

Gopal

... Appellant/Petitioner

-VS-

1. Kayalvizhi

2. The Branch Manager,
National Insurance Company Limited,
33, Prominate Road,
Cantonment,
Trichy - 1

... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, against the award dated 03.09.2009 made in W.C.No.194 of 2006 on the file of the learned Workmen's Compensation Commissioner cum Deputy Commissioner of Labour, Trichy praying praying to set aside the same.

For Appellant : Mrs.V.Sujatha Siddharthan

For R2 : Mr.J.S.Murali



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J U D G M E N T

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This Civil Miscellaneous Appeal has been filed by the appellant as against the order passed in W.C.No.194 of 2006 on the file of the learned Workmen's Compensation Commissioner cum Deputy Commissioner of Labour, Trichy, wherein, the appellant/petitioner herein has filed a petition claiming compensation under the Workmen Compensation Act for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only).

2. The brief facts of the averments made in the petition before the Tribunal are as follows:

On 27.03.2006, at about 01.00 hours, the petitioner was driving the first respondent's TATA SUMO car bearing Registration No.TN-22-M-1366 from Vellore to Trichy and while the car is entering into Trichy, near Irungalur M.I.H.M Training School, the driver of the car dashed against a Tamarind Tree and he sustained injuries all over the body. He was aged about 31 years and earning a sum of Rs.6,000/- (Rupees Six Thousand only) per month. Due to his disablement, he could not to do his work. Thereby, he is claiming a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) towards compensation.



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3. The brief averments in the counter filed by the second respondent are as follows:

The averments made in the petition are denied as false. The date of accident, the manner of accident and the age, occupation and the income of the petitioner are also denied by the second respondent. The petitioner was travelling as passenger in the vehicle. Thereby, the second respondent is not liable to pay any compensation to the petitioner. Hence, the petition is liable to be dismissed.

4. Before the Tribunal, in order to prove the case of the petitioner, they have examined P.W.1 to P.W.4 and marked Exhibits P.1 to P.9. On the side of the respondents, no witness was examined and no documents were marked. After hearing the petitioner's side and perusing the records, the Tribunal has awarded a sum of Rs.3,65,798/- with interest at the rate of 12% p.a and the second respondent was directed to pay the amount within 30 days.

5. Aggrieved over the above said order, the present appeal has been preferred by the petitioner for enhancement of amount.



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6. The learned counsel appearing for the appellant would contend that the petitioner was earning a sum of Rs.6,000/- per month and he was aged about 31 years on the date of accident. Due to the accident, he sustained grievous injuries and permanently disabled. To prove the disablement, he examined Doctor P.W.2 to P.W.4 and also marked Ex.P.6, P.7 and P.9. The Tribunal without taking into consideration the facts, only took meager amount of Rs.3947/- (Rupees Three Thousand Nine Hundred and Forty Seven only) as monthly income. Therefore, the award passed by the Tribunal is liable to be set aside.

7. The learned counsel appearing for the second respondent would contend that the petitioner has not adduced any evidence and not produced any documents to prove his income and thereby, the Tribunal has taken the income of the petitioner as Rs.3,947/- (Rupees Three Thousand Nine Hundred and Forty Seven only) and considering the nature of injuries and the percentage of the disability, the Tribunal has adopted correct formula and awarded fair and just compensation. Therefore, the award passed by the Tribunal is correct and the present appeal is liable to be dismissed.



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8. This Court heard both sides and perused the materials on record.

9. In this case, the appellant has preferred the appeal on the ground of inadequacy of compensation. The grounds raised by the petitioner in the appeal are factual aspects and there is no substantial question of law involved in this case. The ground raised by the petitioner are that the appellant disability is of 75% and he lost his right eye sight and fractures over the spinal cord and right below knee and he had spent a sum of Rs.1,00,000/- (Rupees One Lakhs only) towards medical expenses and due to the permanent disability and he could not drive any vehicle, and his monthly salary was taken as Rs.3,947/- (Rupees Three Thousand Nine Hundred and Forty Seven only) and the same is to be increased. All the grounds raised by the petitioner/appellant are factual aspects and no substantial question of law involved in this case. Therefore, this appeal has no merit and the same is liable to be dismissed.

10. It is settled position of law that the appeal would lie on the substantial question of law. As per Section 30 of the Workmen's Compensation Act.



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11. Therefore it is clear that the appeal would lie as against the substantial question of law, in this case there is no substantial question of law, involved. Hence, this Civil Miscellaneous Appeal is liable to be dismissed.

12. In the result, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

13.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Workmen's Compensation Commissioner cum
Deputy Commissioner of Labour, Trichy.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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